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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,933	03/10/2004	Jahangir S. Rastegar	10028	3287

7590 07/26/2005
Thomas Spinelli
2 Sipala Court
East Northport, NY 11731

EXAMINER

HARTMANN, GARY S

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/796,933

Applicant(s)

RASTEGAR ET AL.

Examiner

Gary Hartmann

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-20, 22-26 and 30-32 is/are pending in the application.
- 4a) Of the above claim(s) 30-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-20 and 22-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

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DETAILED ACTION

Election/Restrictions

Newly submitted claims 30-32 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the newly submitted method does not include a deployment step, as required by the originally filed invention; and the originally claimed invention requires nearly none of the structure in the newly submitted invention.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 30-32 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 16-20 and 22-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "length of the vehicle" in claim 16 is a relative term which renders the claim indefinite. The length is not defined by the claim or the specification. Because vehicles are known to be made in a considerable varieties of lengths, the scope of the claim is unclear.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sumners (U.S. Patent 2,917,283) in view of Evans (U.S. Patent 2,075,892).

Sumners discloses a method of slowing a vehicle comprising providing a panel (13) and deploying it above a surface (Figure 4, for example). Only one panel is shown; however, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have positioned two or more panels as claimed to suit a particular application; for example, in order to be positioned on opposite sides of a railroad track, as taught by Evans. Note that this configuration would be less than the length of some vehicles.

Claims 16, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nasatka (U.S. Patent 4,893,119) in view of Evans (U.S. Patent 2,075,892).

Nasatka discloses a method of slowing a vehicle comprising providing a panel (14) and deploying it above a surface (abstract, for example). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have positioned two or more panels as claimed to suit a particular application; for example, in order to be positioned on opposite sides of a railroad track, as taught by Evans. Note that this configuration would be less than the length of some vehicles.

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Claims 16, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson (U.S. Patent 5,419,537) in view of Evans (U.S. Patent 2,075,892).

Thompson discloses a method comprising providing a panel (14, 16, 60) and deploying it above a surface (Figure 2, for example). Vehicles would inherently slow to cross this structure, since failure to do so would likely result in damage to the structure and/or the vehicle. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have positioned two or more panels as claimed to suit a particular application; for example, in order to be positioned on opposite sides of a railroad track, as taught by Evans. Note that this configuration would be less than the length of some vehicles.

Allowable Subject Matter

Claims 24-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed July 12, 2005 have been considered but are moot in view of the new ground(s) of rejection. Also, note the 112 2nd rejection above.

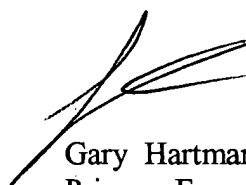
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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Hartmann whose telephone number is 571-272-6989. The examiner can normally be reached on Monday through Thursday, 9am-7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached on 571-272-6998. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gary Hartmann
Primary Examiner
Art Unit 3671

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